

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SIGRUN COCKRELL,
Plaintiff,

VS.

WAL-MART,
Defendant.

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CIVIL ACTION NO. 1:21-cv-00241

JURY TRIAL REQUESTED

NOTICE OF REMOVAL

Defendant **WAL-MART** (hereinafter “Defendant”), files this Notice of Removal of the above-styled action pursuant to 28 U.S.C. § 1446(a) and would respectfully represent and show unto this Court the following:

A. Introduction

1. Defendant has filed its Civil Cover Sheets pursuant to Local Rule 3.1 and Local Rule 81.1. *See Exhibit A.*

2. On or about December 31, 2020, Plaintiff **SIGRUN COCKRELL** (“Plaintiff”) initiated the state court lawsuit against Defendant in the 201st Judicial District Court of Travis County, styled *Sigrun Cockrell v. Wal-Mart.*; Cause No. D-1-GN-20-007777 (the “State Court Action”). In the State Court Action, Plaintiff alleged a cause of action for premises liability against Defendant. In addition, Plaintiff seeks to recover damages for pain and suffering in the past, pain and suffering in the future, mental anguish in the past, mental anguish in the future, past medical expenses, future medical expenses, physical impairment in the past, physical impairment in the future, physical disfigurement in the past, physical disfigurement in the future, loss of use, pre-judgment interest, post-judgment interest, and exemplary damages. *See Plaintiff’s Original Petition*, attached hereto as **Exhibit B**.

3. The attorneys involved in the action being removed are listed as follows:

Party and Party Type

Attorney(s)

Sigrun Cockrell - Plaintiff

Mark Burke
Texas Bar No. 24073979
THE LAW OFFICES OF THOMAS J.
HENRY
5710 Hausman Road, Suite 108
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Phone: 210-656-1000
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Wal-Mart - Defendant

Brett H. Payne
Texas Bar No. 00791417
WALTERS, BALIDO & CRAIN, L.L.P.
9020 N. Capital of Texas Highway
Building I, Suite 170
Austin, Texas 78759
Phone: 512-472-9000
Fax: 512-472-9002
Email: paynevfax@wbclawfirm.com

4. The name and address of the court from which the case is being removed is as follows:

201st Judicial District Court
The Honorable Amy Clark Meachum
Travis County Courthouse
1000 Guadalupe, 3rd Floor
Austin, Texas 78701
Phone: (512) 854-9305
Fax: (512) 854-2268
Mailing Address:
P.O. Box 1748
Austin, Texas 78767

B. The Notice Of Removal Is Timely

5. Defendant's agent was served with citation and a copy of Plaintiff's Original Petition on or about February 12, 2021. *See Exhibit C.* Pursuant to 28 U.S.C. § 1446(b),

Defendant's Notice of Removal was filed within thirty (30) days after receipt by Defendant, through service or otherwise, of a copy of an initial pleading from which it may first be ascertained that the case is one which is or has become removable.

C. Complete Diversity & Amount In Controversy Is Over the Threshold

6. Pursuant to the State Court Action, Plaintiff Sigrun Cockrell is an individual residing in Texas.

7. Defendant Wal-Mart is now, and was at all times relevant hereto, a foreign for-profit corporation which owns and operates the business commonly known as Wal-Mart in Bentonville, Arkansas. Defendant's corporate headquarters, including officers and directors, is located at 702 S.W. 8th Street, Bentonville, Arkansas 72716-8312. Defendant's registered agent, upon whom Defendant may be served with process, is CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. In light of the foregoing, the parties are of completely diverse citizenship. *See* 28 U.S.C. §§ 1332(a), 1332(c)(1) 1441(b).

9. Further, the case involves an amount in controversy of more than \$75,000. *See* 28 U.S.C. § 1332(a). A court can determine that removal is proper from a plaintiff's pleadings if plaintiff's claims are those that are likely to exceed the jurisdictional amount. *See Allen v. R&H Oil & Gas., Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995); *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5th Cir. 1993). In the State Court Action, Plaintiff alleges she seeks "monetary relief between two hundred fifty thousand and 00/100 dollars (\$250,000.00) and one million and 00/100 dollars (\$1,000,000.00)." *See Exhibit B*. Thus, the amount in controversy in the instant case meets the requirements for removal.

10. Copies of all pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). *See Exhibit D.*

D. Basis for Removal

11. Because this is a civil action of which the District Courts of the United States have original jurisdiction, this case may be removed by this Court pursuant to 28 U.S.C. § 1446(b). Further, because Plaintiff is a citizen and resident of Texas, Defendant's principal places of business are located in Arkansas, and the amount in controversy exceeds \$75,000.00, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

E. Filing of Notice with State Court

12. Promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiff through her attorney of record and to the clerk of the state court action.

F. Prayer

13. **WHEREFORE, PREMISES CONSIDERED,** Defendant Wal-Mart requests that this Court proceed with the handling of this cause of action as if it had been originally filed herein, that this Court make such orders, if any, and take such action, if any, as may be necessary in connection with the removal of the state court action to this Court, and that they have such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

BY: /s/ Brett H. Payne
Brett H. Payne
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Fax: 512-472-9002
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**ATTORNEY FOR DEFENDANT
WAL-MART**

CERTIFICATE OF SERVICE

This is to certify that on the 12th day of March, 2021, a true and correct copy of the above and foregoing was forwarded to all counsel of record in accordance with the Federal Rules of Civil Procedure.

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/s/ Brett H. Payne
BRETT H. PAYNE